



City of NORFOLK

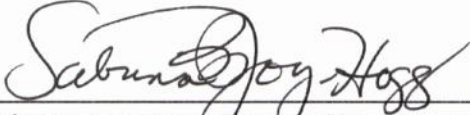
C: Dir., Department of General Services

To the Honorable Council
City of Norfolk, Virginia

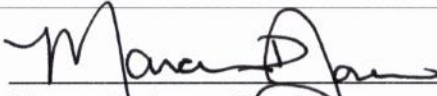
December 15, 2015

From: David S. Freeman, AICP
Director of General Services

Subject: Lease Agreement between
the City of Norfolk and Norfolk NATO
Festival, Inc. for property located at
1361 and 1371 Hanson Ave

Reviewed: 
Sabrina Joy-Hogg, Deputy City Manager

Ward/Superward: 2/6

Approved: 
Marcus D. Jones, City Manager

Item Number:

PH-15

I. **Recommendation:** Adopt Ordinance

II. **Applicant:** Norfolk NATO Festival Inc.

III. **Description:**

This agenda item is an ordinance to approve a Lease Agreement Renewal between the City of Norfolk ("city") and Norfolk NATO Festival, Inc. ("NNF") for property located at 1361 and 1371 Hanson Avenue, Norfolk, Virginia, 23504 ("Demised Premises").

IV. **Analysis**

This agreement will permit NNF to utilize the area necessary for the temporary storage of their organization's parade floats and related equipment. The term of the Lease Agreement shall commence on February 1, 2016 and it shall terminate on January 31, 2017. NNF is to give the city no less than sixty (60) days' notice prior to the end of the current term, otherwise the Lease Agreement will be automatically extended for up to four additional one-year terms; the terms and conditions of the original Lease Agreement will remain applicable throughout any term. The city named as additional insured and proof of insurance is required. This agreement will allow for NNF's continued use of this space for the aforementioned purpose; the number of successive terms noted in the previous 2011 Lease Agreement have since expired.

V. **Financial Impact**

The city will allow NNF to utilize the proposed lease area for the annual rental rate of one dollar (\$1). The city will retain the security deposit of three hundred dollars (\$300). NNF will be responsible for the expenses associated with: utilities for the Demised Premises; for repairs

to the Demised Premises for damages that exceed ordinary wear and tear; and for the removal of trash and janitorial services whenever necessary. The city is not responsible for any utility expenses associated with the lease of the premises.

VI. Environmental

There are no known environmental issues associated with this property.

VII. Community Outreach/Notification

Public notification for this agenda item was conducted through the city's agenda notification process.

VIII. Board/Commission Action

N/A

IX. Coordination/Outreach

This letter and ordinance have been coordinated with the Department of General Services – Office of Real Estate and the City Attorney's Office.

Supporting Material from the City Attorney's Office:

- Ordinance
- Lease Agreement
- Map of proposed Demised Premises

Agenda Overview

Lease Agreement between the City of Norfolk ("city") and Norfolk NATO Festival, Inc. ("NNF") for property located at 1361 and 1371 Hanson Ave

If approved, the Lease Agreement between the city and NNF will permit NNF to utilize the area necessary for the temporary storage of their organization's parade floats and related equipment. Approval is recommended.

Marcus, please approve text for Agenda Overview

☒ Approved

☐ Approved with changes

From Department Head to City Manager

This agenda item is to permit NNF to utilize the area necessary for the temporary storage of their organization's parade floats and related equipment at for 1361 and 1371 Hanson Ave., Norfolk, Virginia, 23504. Council's approval of this Lease Agreement Renewal will constitute:

- NNF is to give the city no less than sixty (60) days' notice prior to the end of the current term, otherwise the Lease Agreement will be automatically extended for up to four additional one-year terms.
- Annual rent paid to the city in the amount of \$1.
- NNF will provide insurance with the city named as the additional insured, and will be responsible for all utilities, repairs to the Demised Premises for damages beyond ordinary wear and tear, and for trash removal and janitorial services whenever necessary.

Form and Correctness Approved: 

By 

Office of the City Attorney

Contents Approved: 

By

DEPT. General Services

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE APPROVING THE TERMS AND CONDITIONS OF A LEASE WITH NORFOLK NATO FESTIVAL, INC. FOR CERTAIN PREMISES LOCATED AT 1361 AND 1371 HANSON AVENUE, NORFOLK, VIRGINIA AND AUTHORIZING THE EXECUTION OF THE LEASE.

- - -

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That the terms and conditions of a Lease between the City of Norfolk as Lessor and Norfolk NATO Festival, Inc., as Lessee, whereby the City leases to Norfolk NATO Festival, Inc., certain City-owned premises known as 1361 and 1371 Hanson Avenue, Norfolk, for a period of one (1) year, with the option to renew for up to four (4) additional years, a copy of which is attached hereto, is hereby approved.

Section 2:- That the City Manager is authorized to execute the Lease on behalf of the City, and to do all things necessary and proper to carry out the Lease.

Section 3:- That the City Manager is further authorized to correct, revise or amend the Lease, with the advice and counsel of the City Attorney, as he may deem necessary to carry out the intent of the Council.

Section 4:- That this ordinance shall be in effect from and after thirty days from the date of its adoption.

**LEASE AGREEMENT
BETWEEN
THE CITY OF NORFOLK
AND
NORFOLK NATO FESTIVAL, INC.**

THIS LEASE AGREEMENT is made this _____ day of _____, 2015, by and between the CITY OF NORFOLK, a municipal corporation of the Commonwealth of Virginia ("Landlord"), and NORFOLK NATO FESTIVAL, INC., a Virginia nonstock corporation ("Tenant").

WITNESSETH:

Tenant indicates a need to enter and occupy a portion of property owned by Landlord located at 1361 and 1371 Hanson Avenue, Norfolk, Virginia (the "Demised Premises"), shown on Exhibit A, for the temporary storage of parade floats and related equipment. There shall be no general public admittance or parking at the Demised Premises. The use of the area will be with no expenditure by Landlord.

THEREFORE, it is agreed as follows:

1. TERM OF LEASE.

Landlord leases unto Tenant and Tenant hires from Landlord the Demised Premises for the period of one (1) year (the "Term") to commence February 1, 2016 and ending on January 31, 2017 (the "Termination Date"), subject to the termination provisions herein contained. Unless Tenant provides written notice otherwise to Landlord at least sixty (60) days prior to the end of the current term, the term of this Lease shall be automatically extended for up to four, additional one-year periods ("Extensions") under all the same terms and conditions of the original Lease. At any time during the original term of this Lease or subsequent Extensions, Landlord may terminate this Lease upon giving thirty (30) days prior written notice.

2. **USE.**

Tenant covenants and agrees to use and occupy the Demised Premises as a temporary storage and staging area for the floats and related equipment and for no other purpose. Tenant understands that the Demised Premises are comprised of a large paved area and unoccupied buildings which will be utilized by Tenant in a manner consistent with the stated purpose.

From time to time, the Landlord may wish to store items in the areas or buildings that are controlled by the Tenant. The Tenant shall not be responsible for any loss or damage of these items.

The parties acknowledge and agree that Tenant shall continue to have access to and shall use the Demised Premises for the temporary storage of parade floats and related equipment and shall have all rights of ingress and egress to the Demised Premises as needed by Tenant.

3. **ACCEPTANCE OF PREMISES.**

Tenant acknowledges that it is familiar with the Demised Premises and hereby agrees to accept the Demised Premises in their present condition, as its. Tenant further acknowledges that neither landlord nor anyone on Landlord's behalf has made any representation or warranties with respect to the condition of the Demised Premises.

4. **BASE RENT.**

4.1 The rental payment ("Base Rent"), of One Dollar and No Cents (\$1.00) is payable, annually, for the Term of this Agreement and any Extensions of the initial Term, to which the parties may subsequently agree.

4.2 In the event that Tenant chooses to exercise Tenant's Right of Entry under the terms described in Section 38, the payment of Base Rent shall become due prior to the first day on which

Tenant takes access to the Premises and continuing to the effective date of this Lease, to be paid to the address described in Section 4.5.

4.3 Upon the commencement of any Extensions, applicable lease rates may be reasonably adjusted by Landlord, provided at least sixty (60) days prior written notice of such adjustment is delivered to Tenant. Each annual installment of rent shall be made promptly in advance of the first day of any Extensions of this Lease without demand and without offset or deduction, together with such additional rent and other charges as may be required to be paid by Tenant and as are hereinafter set forth in this Lease (the "Additional Rent").

4.4 No payment by Tenant or receipt by Landlord of a lesser amount than the Base Rent or Additional Rent stipulated in this Lease shall be deemed other than on account of the earliest stipulated rent, nor shall any endorsement or statement on any check or payment, or any writing accompanying any check or payment of such rent, be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such rent or pursue any other remedy provided in this Lease.

4.5 The annual Base Rent payment shall be paid by check or money order made payable to the City Treasurer and sent to the Office of Real Estate, 232 East Main Street, Suite 250, Norfolk, Virginia 23510.

5. ENVIRONMENTAL CONDITIONS.

Notwithstanding anything in this Lease to the contrary, Tenant does not hereby become responsible or in any manner whatsoever assume liability for environmental conditions or liabilities existing prior to its occupancy hereunder, or for such conditions not caused or permitted by Tenant.

6. JANITORIAL SERVICES AND TRASH REMOVAL.

6.1 Tenant shall store all trash, rubbish and garbage in fully closed containers at a location chosen by Landlord. Tenant shall pay all costs incidental to the removal thereof, unless Tenant is part of a common trash removal service provided by Landlord. Tenant shall not burn or otherwise dispose of any trash, waste, rubbish or garbage in and or about the Demised Premises. Any expenses incurred by landlord related to the removal of the same shall be reimbursed by Tenant. Tenant shall be responsible for providing any necessary temporary toilet facilities.

6.2 Tenant may supply its own janitorial services, if necessary.

7. SECURITY DEPOSIT.

Tenant deposited with Landlord and Landlord retains a pre-paid deposit (the "Security Deposit") in the amount of Three Hundred Dollars and No Cents (\$300.00) as security for the full and faithful performance by Tenant of all terms and covenants of this Lease required to be performed by Tenant. If at any time Tenant shall be in default of any of the covenants of this Lease, Landlord is entitled, at its discretion, to use the Security Deposit, or so much thereof, as may be necessary to rectify or cure such default. In the event that Landlord utilizes the Security Deposit, Tenant shall promptly restore same to Landlord upon Landlord's demand. No interest shall be paid by Landlord to Tenant with respect to the Security Deposit. The Security Deposit, or that portion that remains, shall be returned to Tenant following the termination of this Lease, provided that Tenant has fully and faithfully carried out all its terms and covenants and paid up all its Base Rent, Additional Rent and/or adjustments.

8. INSURANCE.

8.1 Tenant, at its own cost and expense, shall obtain and maintain Comprehensive General Liability Insurance on the Demised Premises for the joint and separate benefit of Landlord

and Tenant, in an amount not less than \$1,000,000 for injury to or death of one person, \$2,000,000 for any one occurrence and \$300,000 for property damage, or in such higher limits as shall be reasonably required by Landlord.

8.2 Tenant is responsible for any and all damages to Tenant's inventory, furniture, fixtures and equipment, and will, at all times during the Lease term and at its own cost expense, maintain all risk property insurance against damage by fire or other perils in an amount equal to the replacement value of all parts of the Premises for which Tenant is responsible. Each insurance policy shall be so written as to protect Landlord and Tenant, as their respective interests may appear, and the insurance policies shall include a waiver of subrogation, and all liability policies shall specifically name Landlord as an Additional Insured under the policy. If Tenant fails to provide such insurance, Landlord may terminate this Lease with ten (10) days notice to Tenant. Certificates of Insurance verifying all required insurance policies shall be delivered to landlord prior to Tenant's occupancy or build-out of the leased space.

8.3 Tenant agrees to look solely to the proceeds of Tenant's own insurer for indemnity against exposure for casualty losses of property or business interruption. Tenant warrants that its liability, property and business interruption insurers shall have no rights against Landlord by virtue of assignment, loan agreement or otherwise.

8.4 Tenant shall defend, indemnify and hold harmless Landlord for and against any and all claims, demands, suits, actions and judgments of any kind or nature whatsoever, including costs and expenses, for any personal injury or property damage to any person, or property, arising or resulting, directly or indirectly, from the entry onto the Demised Premises by Tenant or Tenant's agents.

9. **UTILITIES.**

All utilities in connection with the use of the Demised premises are to be in Tenant's name and shall be Tenant's sole responsibility for payment. Landlord shall have no responsibility for furnishing utilities (municipal, public or private) to the Demised Premises.

10. **REPAIRS.**

Tenant shall keep and maintain the Demised premises in a good and complete state of repair and condition, except for ordinary wear and tear. Tenant shall make all repairs and replacements of every kind and character, to include, but not be limited to, store front glass, and maintain the Demised premises and the appurtenances belonging thereto, and will not call upon Landlord during the term of this Lease for the making of any repairs or replacements whatsoever.

All repairs and replacements shall:

- (a) be performed in a good and workmanlike manner,
- (b) be at least substantially equal in quality and usefulness to the original work,
- (c) be of first-class modern character, and
- (d) not diminish the overall value of the Demised premises.

In this context "Demised Premises" refers to the partitions, ceilings, floors and other improvements heretofore or hereafter constructed at Tenant's expense.

11. **REQUIREMENTS OF PUBLIC AUTHORITIES.**

Tenant shall suffer no waste or injury in or about the Demised Premises and shall comply with all federal, state, county and municipal laws, ordinances and regulations applicable to the structure, use and occupancy of the Demised Premises, including, without limiting the generality of the foregoing, the making of any structural repairs that may be required in order to comply with said laws, ordinances and regulations. In addition, Tenant shall effect the correction, prevention

and abatement of nuisances, violations or other grievances in upon or connected with the Demised premises and shall also promptly comply with all rules, orders and regulations of the Board of Fire Underwriters and any insurance company insuring the Demised Premises. In this context, "Demised Premises" refers to the partitions, ceilings, floors and other improvements heretofore and hereafter constructed at Tenant's expense.

12. LANDLORD'S RIGHT TO CURE.

Landlord and its agents and workmen shall have the right to enter into and upon the Demised premises at all reasonable times for the purpose of inspection and examination of the state or repair and condition thereof. Landlord may, but shall not be obligated to make such repairs as shall be necessary as a consequence of any failure of Tenant to meet its obligations under this Lease. The cost of any such repairs undertaken by Landlord, together with interest thereon at the rate of 18% per annum, shall be deemed to be Additional Rent payable by Tenant upon demand by Landlord. The making of any such repairs by Landlord shall not constitute a waiver by Landlord of any right or remedy provided by this Lease upon Tenant's default in the making of repairs.

13. RIGHTS OF INGRESS AND EGRESS.

Tenant agrees and represents it will cause as little disruption to the surrounding community as possible advising community in advance of any significant deployments into or from Demised Premises. Grantee agrees any vehicles, as well as towed floats, shall enter and exit Property in the same manner as follows; Grantee when moving into the Demised premises shall enter from East Princess Anne road in a northerly direction onto Maltby Avenue, crossing Goff Street until it intersects Cary Street where any vehicles shall turn left onto Cary Street and proceed until it reaches the intersection with Hanson Avenue where it can proceed directly onto the Demised

Premises. When exiting Demised Premises the route shall be the reverse leaving Demised Premises by way of Cary Street, right onto Maltby Avenue, and Maltby to Princess Anne Road, where it may proceed in the direction it deems appropriate.

14. DESTRUCTION.

If, during the Term of this Lease and any Extensions, the Demised Premises or any part thereof, including portions of the building not occupied by Tenant, shall be damaged by fire, storm, or other casualty, Landlord shall not be obligated to repair or rebuild the same, and if the premises become untenable due to fire, storm, or other casualty and would not be rendered tenantable by Tenant's discharge of the obligation to maintain and repair the Demised Premises, as therein defined, this Lease shall immediately terminate, provided always that there shall be no cessation of rent if the damages shall have been the result of the negligence, default, or willful act of Tenant or its agents or employees.

15. INDEMNIFICATION.

Except as provided in Section 2 above, Tenant shall defend, indemnify and save harmless Landlord from all fines, penalties, costs, suits, proceedings, liabilities, damages, claims and actions of any kind arising out of the use and occupation of the Demised premises by reason of any breach or nonperformance of any covenant or condition of this Lease by Tenant, or by Tenant's intentional act or negligence, and not caused in whole or in part by Landlord. This indemnification shall extend to all claims of any person or party for death or injury to persons and damage to any property, and to legal expenses, including reasonable attorney's fees, incurred by Landlord in the defense of such claims or incurred by Landlord as a result of a breach of any provision on this Lease by Tenant, but does not extend to circumstances caused in whole or in part by Landlord. Tenant shall not be responsible for damage to the building resulting from acts of nature or for

structural damage which it is not the fault of Tenant with the exception of replacement of the glass storefront.

16. NON-LIABILITY OF LANDLORD.

Landlord shall not be liable for any damage or injury which may be sustained by Tenant or any other person as a consequence of the failure, breakage, leakage or obstruction of the water, plumbing, steam, gas, sewer, drains, leaders, gutters, valleys or the like, or of the electrical, or sprinkler, equipment, if any, in the Demised premises; or by reason of the elements not caused in whole or in part by Landlord.

17. ALTERATIONS.

Tenant covenants and agrees that it will not make any material improvements, changes, installations, renovations, additions or alterations in and about the Demised Premises without the prior written consent of Landlord.

18. ASSIGNMENT AND SUBLETTING.

Tenant will not assign this Lease or sublet the Demised Premises.

19. AIR AND WATER POLLUTION.

Tenant expressly covenants and agrees to defend, indemnify and save Landlord harmless against any claim, damage, liability, cost, penalty, or fine which Landlord may suffer as a result of air, noise or water pollution caused by Tenant in its use of the Demised premises. Tenant covenants and agrees to notify Landlord immediately of any claim or notice served upon it containing any allegation that Tenant is causing air, noise, or water pollution. Tenant, in any event, will take immediate steps to halt, remedy or cure any such pollution caused by Tenant in connection with its use of the Demised Premises. Tenant shall restrict noise in its operations so as to comply with any codes, city ordinances, or regulations of any kind regarding same.

20. COVENANT AGAINST LIENS.

Tenant agrees that it shall not encumber, or suffer or permit to be encumbered, the Demised premises or the fee thereof by any lien, charge or encumbrance, and Tenant shall have no authority to mortgage or hypothecate this Lease in any way whatsoever.

21. HAZARDOUS SUBSTANCES PROHIBITED.

(a) For purposes of this Lease, "Hazardous Substances" include any pollutants, dangerous substances, toxic substances, hazardous wastes, hazardous materials or hazardous substances as defined in or pursuant to the Resource and Conservation Recovery Act (42 U.S.C. 1 SS6901 et seq.) (RCRA), the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. SS9601 et seq.) (CERCLA) or any other federal, state or local environmental law, ordinance, rule or regulation.

(b) Tenant shall be prohibited from bringing upon or permitting any of its employees or agents from bringing upon the Demised premises any Hazardous Substances, as defined in subsection (a) above. It is understood and agreed that in this context, the term "agent" does not include independent contractors, unless Tenant has knowledge of such violations and acquiesces therein. In the event Tenant, or any of its employees or agents, permits any such Hazardous Substance to be brought upon the Demised Premises, Tenant hereby agrees to defend (with counsel satisfactory to Landlord) and to indemnify and hold Landlord harmless from and against any and all claims, losses, liabilities, damages and expenses (including, without limitation, reasonable cleanup costs and attorney's fees arising under this indemnity) which may arise directly or indirectly from any use or release of hazardous Substances on the Demised Premises and losses and claims against Landlord resulting from Tenant's failure to comply strictly with the provisions of this section. Subject to an applicable defense available to Landlord, Landlord shall be

responsible for any and all claims, actions, damages, liabilities and expenses in connection with the release of Hazardous Substances on the Demised Premises or any of the environmental conditions existing on the Demised Premises prior to Tenant's occupancy. The provisions of this section shall survive the expiration or earlier termination of this Lease.

22. SURRENDER BY TENANT AT END OF TERM.

22.1 Tenant will surrender possession of the Demised Premises and shall remove all goods, chattels, and other personal property in the possession of Tenant by whomsoever owned, at the end of the term of this Lease, or at such other time as Landlord may be entitled to re-enter and take possession of the Demised Premises pursuant to any provisions of this Lease. In either instances, Tenant shall leave the Demised Premises in the good order and condition as it was presented on the Commencement Date, reasonable wear and tear excepted.

At the end of the term of this Lease, should Tenant fail to surrender the Demised Premises and remove the aforesaid goods, chattels, and other personal property in the possession of Tenant by whomsoever owned, pursuant to the terms of this Lease, Tenant shall pay to Landlord all rents due for the Tenant's default of this Lease and subsequent holdover. In addition, Tenant shall compensate Landlord for all statutory penalties or other damages that are incurred by the Landlord due to the Tenant's default and holdover.

22.2 If Tenant fails to remove all goods and chattels and other personal property in possession of Tenant, by whomsoever owned, at the end of the term of this Lease, or at such other time as Landlord may be entitled to re-enter and take possession of the Demised Premises pursuant to any provision of this Lease, Tenant hereby irrevocably makes, constitutes and appoints Landlord as the agent and attorney-in-fact of Tenant to remove all goods and chattels and other personal property, by whomsoever owned, from the Demised premises to a reasonably safe place of storage,

such moving and storage to be at the sole cost and expense of Tenant, and Tenant covenants and agrees to reimburse and pay to Landlord all expenses which Landlord incurs for the removal and storage of all such goods and chattels. In addition, at the option of Landlord, Tenant shall be deemed to have abandoned such goods, chattels and other personal property and the same shall become the property of Landlord. Tenant shall reimburse and pay landlord for all expenses incurred in the removing or disposing of the abandoned property.

22.3 No act or thing done by Landlord shall be deemed an acceptance of the surrender of the Demised Premises unless Landlord shall execute a written release of Tenant. Tenant's liability hereunder shall not be terminated by the execution by Landlord of a new lease of the Demised Premises.

23. DEFAULT BY TENANT.

23.1 If before or during the term of this Lease there shall occur any of the following events ("Events of Default"):

(a) If Tenant shall make a general assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts as they become due, is adjudicated bankrupt or insolvent, or shall file a petition seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation or shall file an answer admitting or not contesting the material allegations of a petition against it in any such proceeding, or shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of Tenant or of any material part of its assets, and such appointment shall not have been vacated; or

(b) if, within sixty (60) days after the commencement of any proceeding against Tenant seeking any reorganization, arrangement, composition, readjustment, liquidation,

dissolution or similar relief under any present or future statute, law or regulation, such proceeding shall not have been dismissed, or if, within sixty (60) days after the appointment without the consent or acquiescence of Tenant of any trustee, receiver or liquidator of Tenant or of any material part of its assets, such appointment shall not have been vacated; or

(c) if the interest of Tenant in the Demised Premises shall be sold under execution or other legal process; or

(d) if Tenant shall fail to pay any installment of Base Rent within seven (7) days of due date; or

(e) if Tenant shall fail to perform or observe any requirement, obligation, agreement, covenant or condition of this Lease, other than the payment of any installment of Base Rent, and any such failure shall continue for fifteen (15) days after Landlord gives Tenant notice thereof, or if such failure cannot be remedied within fifteen (15) days, then for a reasonable time thereafter, provided Tenant commences to remedy such failure within said 15-day period and prosecutes the same to completion with diligence; or

(f) if any representation or warranty of Tenant contained in this Lease shall prove to be incorrect in any material respect on the date upon which it was made;

then at any time following any of such Events of Default, Landlord, without waiving any other rights herein available to Landlord at law or in equity, may either (1) give Tenant notice of termination of this Lease, or (2) without terminating this Lease, give Tenant notice of Landlord's intention to re-enter and take possession of the Demised Premises, with or without legal process. The giving of either of such notice to Tenant shall terminate Tenant's right to possession of the Demised Premises under this Lease, however, such termination will be without

prejudice to the rights of the Landlord to exercise all available legal remedies and will not discharge Tenant of any liabilities thereto.

23.2 If Landlord elects to terminate Tenant's right to possession of the Demised premises under Section 23.1 following an Event of Default, Landlord may re-enter and take possession of the Demised premises, with or without legal process, and Tenant hereby waives any claim for damages as a result thereof, and Tenant shall be obligated to pay to Landlord as damages upon demand, and landlord shall be entitled to recover of and from Tenant:

(a) all Base Rent which is in arrears as of the date of termination of Tenant's right to possession, plus

(b) the cost to Landlord of all reasonable legal and other expenses and costs (including reasonable attorney's fees) incurred by landlord in obtaining possession of the Demised Premises, in enforcing any provision of this Lease, in preserving the Demised Premises during any period of vacancy, in making such alterations and repairs to the Demised Premises as Tenant was required to make pursuant to the terms of this Lease and in reletting the Demised Premises, including all reasonable brokerage commissions therefore, plus

(c) either:

(i) in the event of Landlord's giving notice of its intention to re-enter and take possession without terminating this Lease, damages (payable in monthly installments, in advance, on the first day of each calendar month following the giving of such notice and continuing until the date originally fixed herein for the expiration of the then current term of this Lease) in amounts equal to the Base Rent and Additional Rent herein reserved, less the net amount of rent, if any, which may be collected and received by Landlord from the Demised premises for and during the balance of the term hereof; Landlord may relet the Demised premises, or any part or parts thereof

and Landlord may grant concessions or charge a rental in excess of that provided in this Lease (Tenant shall have no right to any excess); or

(ii) in the event of Landlord's giving notice of termination of this Lease, an award for liquidated damages in an amount which, at the time of such termination, is equal to the excess, if any, of the installments of Base Rent and the aggregate of all sums payable hereunder as Additional Rent for the period which would otherwise have constituted the unexpired portion of the then current term of this Lease, plus the value of all other considerations to be paid or performed by Tenant during such period, over the fair rental value of the Demised Premises, as of the date of such termination, for such unexpired portion of the then current term of this lease, or any part thereof if relet by Landlord for the unexpired term of this Lease, or any part thereof. If Landlord shall elect to re-enter and take possession without terminating this Lease, Landlord shall have the right at any time thereafter to terminate this Lease for such previous default, whereupon the provisions of this subsection with respect to termination will thereafter apply. Landlord will make reasonable effort to mitigate its damages.

23.3 Landlord may sue for and collect any amounts which may be due pursuant to the provisions of Section 23.2 above from time to time as Landlord may elect, but no such suit shall bar or in any way prejudice the rights of Landlord to enforce the collection of amounts due at any time or time thereafter by a like or similar proceeding.

23.4 Tenant agrees to pay all costs of proceedings by Landlord for the enforcement of any breach of the terms and conditions of this Lease by Tenant, including reasonable attorney's fees and expenses, which shall be deemed Additional Rent for the period with respect to which the Event of Default occurred, if Landlord is the prevailing party in such suit.

23.5 No remedy herein conferred upon or reserved to Landlord is intended to be exclusive of any other remedy herein or by law provided, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. The receipt and acceptance by Landlord of rent with knowledge of the default by Tenant in any of Tenant's obligations under this Lease shall not be deemed a waiver by Landlord of such default. Nothing contained in this Lease shall limit or prejudice the right of Landlord to prove for and obtain in proceedings for bankruptcy or insolvency an amount equal to the maximum allowed by any statute or rule of law in effect at the time when and governing the proceedings, in which the damages are to be proved, whether or not the amount be greater, equal to, or less than the amount of the loss or damages referred to above.

23.6 No waiver by Landlord of any Event of Default or any default by Tenant in any covenant, agreement or obligation under this Lease shall operate to waive or affect any subsequent Event of Default or default in any covenant, agreement or obligation hereunder, nor shall any forbearance by Landlord to enforce a right or remedy upon an Event of Default or any such default be a waiver of any of its rights and remedies with respect to such or any subsequent default or in any other manner operate to the prejudice of Landlord.

24. NO JOINT VENTURE.

It is hereby agreed that nothing contained in this Lease shall be deemed or construed as creating a partnership or joint venture between Landlord and Tenant, or between Landlord and any other party, or cause either party to be responsible in any way for the debts or obligations of the other party.

25. QUIET ENJOYMENT.

Landlord covenants that Tenant, on paying the rent and performing the covenants and conditions contained in this Lease, shall and may peaceably and quietly have, hold and enjoy the Demised Premises for the term aforesaid.

26. CERTIFICATES BY TENANT AND LANDLORD.

Tenant and Landlord agree that at any time and from time to time during the term of this Lease, within ten (10) days after written request from the other, to execute, acknowledge and deliver to the requesting party or to a third party a statement in writing certifying that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modification), and the dates to which the Base Rent, and other charges have been paid in advance, if any, and stating whether or not, to the best knowledge of the party, the requesting party is in default in the performance of any covenant, agreement or condition contained in this Lease, and, if so, specifying each such default of which such party may have knowledge. Such third party shall have the right to rely upon the contents of any such written statement.

27. NOTICES.

27.1 Whenever it is provided herein that notice, demand, request or other communication shall or may be given to or served upon either of the parties, or if either of the parties shall desire to give or serve upon the other any notice, demand, request or other communication with respect hereto or the Demised Premises, each such notice, demand, request or other communication shall be given in writing either by hand delivery, overnight courier or by mailing same by registered or certified mail return receipt requested, with proper postage pre-paid and any law or statute to the contrary notwithstanding, shall be given or served as follows:

Landlord:

City of Norfolk

Office of Real Estate
232 East Main Street, Suite 250
Norfolk, Virginia 23510
Attn: Manager of Real Estate

Tenant:

Norfolk NATO Festival, Inc.
440 Bank Street
Norfolk, Virginia 23510
Attn: Executive Director

or at such other address as either of the parties may from time to time designate by written notice.

27.2 Every notice, demand, request or other communication hereunder shall be deemed to have been given or served at the time that the same shall be hand delivered or deposited in the United States mail, postage pre-paid, in the manner aforesaid.

28. CAPTIONS.

The captions to the sections of this Lease are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope or intent of this Lease or any part thereof nor in any way affect this Lease or any part thereof.

29. COVENANTS AND CONDITIONS.

All of the terms and provisions of this Lease shall be deemed and construed to be "covenants" and "conditions" to be performed by the respective parties as though words specifically expressing or importing covenants and conditions were used in each separate term and provision thereof.

30. WAIVER OF TRIAL BY JURY.

Landlord and Tenant hereby mutually waive their rights to trial by jury in any action, proceeding or counterclaim brought by either of the parties hereto against the other on any matters whatsoever arising out of or in any way connected with this Lease, Tenant's use or occupancy of the Demised Premises, and any claim of injury or damage.

31. DEFINITION OF TERM "LANDLORD".

When the term "Landlord" is used in this Lease, it shall be construed to mean and include only the then owner of the fee title of the Demised Premises. Upon the transfer by Landlord of the fee title to the Demised Premises, Landlord shall give Tenant notice in writing of the name and address of Landlord's transferee. In such event, the then Landlord shall be automatically free and relieved from and after the date of such transfer of title of all personal liability with respect to the performance of any of the covenants and obligations on the part of Landlord herein contained to be performed, provided any such transfer and conveyance by Landlord is expressly subject to the assumption by the grantee or transferor of the obligations of Landlord to be performed pursuant to the terms and conditions of this Lease.

32. BROKERAGE REPRESENTATION.

Landlord shall have no obligation for the payment of any real estate commission in regard to this Lease, and Tenant shall indemnify and hold harmless landlord from and against any claim by a real estate agent for any commission relative to this Lease.

33. ENTIRE AGREEMENT.

This Lease contains the entire agreement between the parties and shall not be modified in any manner except by an instrument in writing executed by the parties.

34. APPLICABLE LAW.

This Lease shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia, and any suit arising out of this lease only shall be brought in the State or Federal Courts located in the State of Virginia. In the event of any such suit, the parties hereto consent to the personal jurisdiction of such courts and waive any defense based on improper venue.

35. BIND AND INURE CLAUSE.

The terms, covenants and conditions of this Lease shall be binding upon and inure to the benefit of each of the parties hereto, and their respective successors and assigns.

36. TENANT'S RECOURSE.

In any action or proceeding brought by Tenant against Landlord on this Lease, Tenant shall look solely to landlord's interest in the Demised premises for the payment of any damages or satisfaction of any liabilities or obligations of Landlord, and no judgment obtained by Tenant shall be enforceable against, or a lien upon, any property of Landlord other than the Demised Premises.

37. LANDLORD'S RIGHT TO ENTER.

Landlord and its agent shall have the right to enter into and upon the Demised Premises, after giving notice to Tenant, for the purpose of inspection and to make any repairs necessary to Landlord's property.

38. TENANT'S RIGHT OF ENTRY.

Landlord hereby grants Tenant the right to enter into the Premises not more than thirty (30) days prior to the effective date of authorizing ordinance, solely at their own risk, for the purpose of building out the premises in connection with the intended use. Prior to entering the Premises, Tenant will deliver to landlord the Insurance Certificates as required in Section 8. If for any reasons Tenant shall not occupy the Premises as permitted by this Lease and has, however, commenced build out for the proposed use prior to the effective date of authorizing ordinance, Tenant shall repair any damage to the Premises and shall restore all disturbed areas to its original condition.

IN WITNESS WHEREOF, the parties have executed or have caused this Lease to be executed by their duly authorized officers and their corporate seals to be hereunto affixed and attested, all as of the day and year first above written.

CITY OF NORFOLK

By: _____
City Manager

ATTEST:

City Clerk

NORFOLK NATO FESTIVAL, INC.

By: _____
Title: _____

CONTENTS APPROVED:

Manager of Real Estate

APPROVED AS TO FORM AND CORRECTNESS:

Mary L. G. Nexsen
Deputy City Attorney



Norfolk NATO
Festival Access

City of Norfolk Access
- FestEvents / DNC

City of Norfolk Access

HANSON AVENUE

COFF STREET